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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF OREGON

9 MARK POTTER, in his capacity
10 as trustee of various
irrevocable trusts,

O R D E R
Civ. No. 07-244-AA

11 Plaintiff,

12 vs.

13 STEVEN BIGGS, THOMAS CROSSWHITE,
14 and UNIQUE SETTLEMENTS, LLC, a
foreign corporation,

15 Defendants.
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17 AIKEN, Judge:

18 Defendants' move to dismiss plaintiff's Second Amended
19 Complaint alleging plaintiff failed to establish diversity
20 between the parties; plaintiff failed to plead damages over the
21 statutory minimum of \$75,000; and finally, lack of personal
22 jurisdiction over defendants. Defendants' motion is granted in
23 part and denied in part.

24 DISCUSSION

25 First, plaintiff is granted leave to amend his complaint to
26 properly allege citizenship in the State of Oregon. There is no
27 dispute that defendant Crosswhite is a citizen of the State of
28 Utah and that defendants Biggs and Unique Settlements, LLC are

1 citizens of the State of Arizona. Assuming plaintiff files a
2 Third Amended complaint to reflect the fact that plaintiff is a
3 citizen of the State of Oregon (as represented to this court in
4 plaintiff's pleading), then pursuant to 28 U.S.C. § 1332,
5 diversity of citizenship exists and this court maintain
6 jurisdiction over this matter. Defendants' motion to dismiss on
7 this ground is granted, however, plaintiff is allowed leave to
8 file an amended complaint.

9 Next, defendants argue that plaintiff failed to allege the
10 requisite amount in controversy. In addition to alleging
11 diversity of citizenship, § 1332 requires that plaintiff must
12 also allege that the amount in controversy as to each defendant
13 meets or exceed the jurisdictional minimum, \$75,000.

14 Plaintiff first alleges that for "purposes giving rise to
15 liability," defendants Steven Biggs and his company, Unique
16 Settlements, LLC, are the same entity. So that plaintiff need
17 not plead that Biggs is liable for \$75,000 and Unique is liable
18 for a different \$75,000. Further, plaintiff alleges that his
19 claim against defendant Crosswhite is substantively different
20 from the claims against Biggs and Unique. Plaintiff alleges
21 unjust enrichment against Crosswhite in the amount of \$600,000,
22 specifically alleging that Crosswhite received \$600,000 of
23 plaintiff's money from Biggs and Unique and Crosswhite's receipt
24 and retention of that money is actionable.

25 Plaintiff argues that defendants do not dispute that the
26 jurisdictional floor has been meet for three of the fourteen
27 trusts of which he is Trustee. Plaintiff asserts that if this
28 court properly has jurisdiction over three of the fourteen trusts

1 then the court has discretion to exercise supplement jurisdiction
2 over the other eleven trusts.

3 Defendants' motion to dismiss on this ground is granted.
4 Plaintiff, however, is again granted leave to amend his complaint
5 to include a "short and plain" statement of his claims supporting
6 defendant Biggs' liability on an alter ego or piercing the
7 corporate veil theory. Fed. R. Civ. P. 8(a)(1). Regarding
8 plaintiff's allegation of "pendent or supplemental jurisdiction"
9 over state claims, plaintiff is further allowed leave to amend to
10 allege that the same operative facts are present for each trust
11 and transaction. Id.

12 Finally, defendants assert that this court lacks personal
13 jurisdiction over defendants. I disagree and find plaintiff has
14 alleged sufficient facts allowing for the exercise of personal
15 jurisdiction over the defendants. Simply put, plaintiff as an
16 Oregon citizen, on behalf of Oregon citizen trusts of which he is
17 Trustee, made contracts in Oregon with defendants for the sale of
18 life insurance policies in Oregon, and it was in Oregon that
19 defendants allegedly defrauded plaintiff of profits. Defendant's
20 motion to dismiss on this ground is denied.

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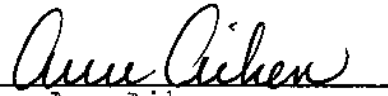
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1 CONCLUSION

2 Defendants' joint motion to dismiss the second amended
3 complaint (doc. 15) is granted in part and denied in part.
4 Further, defendants' request for telephone oral argument is
5 denied as unnecessary. Plaintiff's amended complaint must be
6 filed by December 7, 2007.

7 IT IS SO ORDERED.

8 Dated this 9 day of November 2007.

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13 Ann Aiken
14 United States District Judge
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